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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,268	06/01/2005	Pia Baum	272481US0PCT	1119
22850 7590 08/27/2008 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER NGUYEN, KHANH TUAN				
ART UNIT 1796		PAPER NUMBER		
NOTIFICATION DATE 08/27/2008		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/537,268

Applicant(s)

BAUM ET AL.

Examiner

KHANH T. NGUYEN

Art Unit

1796

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 40-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 40-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The amendment filed on 06/17/2008 is entered and acknowledged by the Examiner. Claims 40-46 are currently pending in the instant application. Claims 20-24, 26, 30-37 and 39 have been withdrawn from further consideration. Claims 1-19, 25, 27-29, and 38 have been canceled.

Allowable Subject Matter

2. During a telephone interview with Frederick Vastine, on July 22, 2008, claims 40-44 were indicated allowable and Applicant had agreed to cancel claims 45 and 46. However, after a further consideration and/or update search the allowability of claims 40-44 are withdrawn in view of the new rejections.

Withdrawn Rejections

3. The rejection of claims 40-43 and 45-46 under 35 U.S.C. 102(a)/(e) as being anticipated by Takagi et al. (U.S. Pat. 6,447,696) is withdrawn in view of Applicant's amendment.

4. The rejection of claim 44 under 35 U.S.C. 103(a) as being unpatentable over Takagi (U.S. Pat. 6,447,696) is withdrawn in view of Applicant's amendment.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 46 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 46 is a method claim and depends on claim 45. However, claim 45 is a composition claim (i.e. An aqueous leveling or stripping agent). Appropriate correction is required. To advance prosecution, the Examiner will construe claim 46 to be a composition claim and depends on claim 45.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 42-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takagi et al. (U.S. Pat. 6,447,696 B1 hereinafter, "Takagi").

With respect to claims 45-46, Takagi discloses a grafted polymer comprising a polymerized alkylene oxide component with an ethylene oxide content of at least 50 mol % to obtain a polyether compound (A) having a number-average molecular weight of not lower than 200 (Col 2, lines 29-34). The disclosed polyether compound (A) is considered readable on the claimed polymeric grafting base A which contains no monoethylenically unsaturated units. Takagi further discloses graft-polymerizing a graft component (B) onto the said polyether compound (A) in a ratio such that the graft component (B) is in the range of 0.1 about 1.2 weight parts per 1 weight part of the polyether compound (A), wherein the graft component (B) includes N-vinylpyrrolidone (b1) as an essential component and might further include a monoethylenically unsaturated monomer (b2), wherein the monomer (b2) may includes a cationic monoethylenically unsaturated monomer (b2-2) such as *N-vinylimidazole* (Col. 2, lines 34-44 and Col. 5, lines 16-19). The disclosure of N-vinylpyrrolidone (b1) monomer and N-vinylimidazole (b2-2) monomer are considered readable on the claimed B1 and B2 monomers. Takagi further exemplify at Example 2, the combination of N-vinylpyrrolidone and N-vinylimidazole monomers polymerizing with polyethylene glycol. Takagi teaches the said grafted polymer may be combined with 0.1 wt. % (430 ppm) of a *surfactant* (i.e. dispersant) to form a liquid wash composition (Col. 9, lines 25-35). Although Takagi does not teach a leveling or stripping use of his composition, the two different intended uses are not distinguishable in terms of the composition, see *In re*

Thuau, 57 USPQ 324; *Ex parte Douros*, 163 USPQ 667; and *In re Craige*, 89 USPQ 393. Thus, the liquid wash composition of Takagi is readable on the claimed aqueous leveling or stripping agent as recited in claims 45 and 46.

With respect to claims 42 and 43, Takagi teaches the said grafted polymer is not only useful as scale inhibitors and detergent additives but also additive agents in textile dyeing process (Col. 7, lines 53-61). The said additive agent of Takagi comprises of similar components as claimed and is useful in a similar process (i.e. dyeing a textile) as claimed. Thus, the said additive agent of Takagi is considered capable of leveling the dyeing of a textile as claimed because structurally similar compounds (grafted polymer) are generally expected to have similar properties (i.e. leveling ability). In *re Gvurik*, 596 F. 2d 1012,201 USPQ 552.

With respect to instant claim 44, Takagi discloses a wash liquid composition for inhibiting dye migration wherein the said composition comprises of 10 ppm of the grafted polymer in 500 ml of water matrix, which is the equivalence to 0.002 g/l (Col. 9, lines 29-35 and Col. 11, lines 11-17). Although, Takagi does not explicitly suggest a method wherein the amount of polymeric agent ranges from 0.01 to 10 g/l. Nonetheless it would have been obvious to one having ordinary skill in the art to arrive at the optimal proportions of polymeric agent through routine experimentation for best results (i.e. a range from 0.01 to 10 g/l). As to optimization results, a patent will not be granted based upon the optimization of result effective variables when the optimization is

obtained through routine experimentation unless there is a showing of unexpected results which properly rebuts the *prima facie* case of obviousness.

9. Claims 40 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takagi (U.S. Pat. 6,447,696 B1) as applied to the above claims, and further in view of either Modebelu et al. (U.S. Pat. 6,217,621 B1 hereinafter, "Modebelu") or Fono (U.S. Pat. 4,227,881 hereinafter, "Fono").

Takagi is relied upon as set forth above. With respect to instant claims 40 and 41, Takagi teaches a liquid wash composition comprising of the claimed grafted polymer and a surfactant (dispersant). Takagi further teaches the said grafted polymer absorbs and dispersed dyes as eluted from fiber into water by washing and inhibit the dyes from migrating to other fibers (Col. 9, lines 8-15). In other words, the eluted dyes are stripped off the fiber and elute into water and are further absorbed/dispersed and inhibited from migrating to other fibers in the presence of the said grafted polymer. The grafted polymers of Takagi not only function as a dye absorbor, a dye dispersant and a dye inhibitor but also a dye stripper.

The difference between the instant claims and Takagi invention is that Takagi does not disclose stripping off dyes at a pH ranging from 9-13 and at a temperature above room temperature.

Modebelu discloses a conventional stripping process wherein the textile such as cotton is place in an aqueous bath having a pH from 10.2 to 12.3 at a bath temperature of 90-160°F, i.e. 32 to 71°C (Col. 1, lines 38-49).

Fono discloses an aqueous stripping liquid having a pH from about 5 to 9 wherein a variety of fabric dyes can be stripped from a variety of fabrics using a temperature of at least about 140°F.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the grafted polymer of Takagi to strip off dyes on textile as suggested by Takagi at a pH and temperature as suggested by either Modebelu or Fono because such parameters for stripping of dyes are conventional and known in the art.

Response to Arguments

10. Applicant's arguments with respect to claims 40-46 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KHANH T. NGUYEN whose telephone number is

(571)272-8082. The examiner can normally be reached on Monday-Friday 8:00-5:00 EST PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lorna M Douyon/
Primary Examiner, Art Unit 1796

/KTN/
08/18/2008